

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ROBERT W. SMITH, JR.,)
Plaintiff,)
v.) 1:05CV00439
)
MR. JOHN K. MOTSINGER, SR., et al.)
Defendants.)

JUDGMENT

For the reasons set out in an Order filed contemporaneously with this Judgment,

IT IS ORDERED AND ADJUDGED that this action is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous or malicious or for failing to state a claim upon which relief may be granted, as well as for seeking monetary relief against a defendant who is immune from such relief.

IT IS FURTHER ORDERED that for the same reasons given for dismissal, the Court finds that any appeal would not be in good faith and permission to proceed on appeal in forma pauperis is denied pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24.

This the day of July 5, 2005

/s/ N. Carlton Tilley, Jr.
United States District Judge